IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 264 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE A.L.DAVE

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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NAVJIBHAI LAKHMANBHAI VARLI - Appellant(s)

Versus

LALLUBHAI MORARBHAI LAD &2 - Defendant(s)

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Appearance :

MR DR BHATT for Petitioner No(s).: 1.
NOTICE SERVED for Respondent No(s).: 1,3.
MR ARUN H MEHTA for Respondent No(s).: 2.

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CORAM :HON'BLE MR.JUSTICE A.L.DAVE

Date : 14/07/2005

ORAL JUDGMENT

1.This appeal arises out of a judgment and award rendered by M.A.C.Tribunal, Valsad at Navsari in M.A.C.Petition No.232 of 1983 on 20th August,1985. The appellant is the original claimant

and for sake of convenience, he is addressed to as the claimant and the respondents are the original opponents and are addressed to as the opponents herein after.

2. The claim petition was preferred on account of accidental injuries sustained by the claimant while he was travelling in Truck No.GTB-7237 as a labourer on 21st April,1983. He therefore preferred the claim petition claiming Rs.75,000/- by way of compensation from the opponents. Opponent No.1 is the owner, Opponent No.3 is the driver and opponent No.2 is the insurer of the vehicle in question.

3. The Tribunal took into consideration the evidence led by parties and came to conclusion that the claimant was entitled to amount claimed i.e. Rs.75,000/- as compensation with interest @ 6% per annum from date of application till the realization. The Tribunal found that the insurance policy did not cover wider liability in respect of labourers of Truck and, therefore, concluded that the liability of all the opponents would be joint and several in respect of an amount of Rs.26,680/- an amount quantified as per Workmen's Compensation Act and for rest of the awarded amount, the Tribunal held that it would be joint and several liability of opponent nos.1 and 3 to pay the compensation. Against the award, the claimant has preferred this appeal. None of the opponents appear to have preferred any appeal.

4. Learned Advocate Mr.Bhatt for the appellant – claimant submitted that the Tribunal has awarded the amount of compensation as claimed by the claimant and on quantum, there cannot be any grievance but, the claimant is aggrieved by bifurcation of liability made by the Tribunal in operative part of the order effectively holding that the liability of the Insurance Co. would be limited to Rs.26,680/- with proportionate cost and interest along with other opponents.

5. This Court has examined R &P, particularly policy at Exh.67 and it is clear from the policy that an amount of Rs.16/- has been charged by the Insurance Co. to cover wider liability in respect of driver and cleaner. No further liability is accepted by the Insurance Co. as no further premium is charged and as such, a labourer of the truck would not be covered for wider liability by the policy in view of the fact that the policy covered only 3rd party risk. Differently put, the policy covered the risk contemplated under the Act only. The Tribunal has taken into consideration this aspect and has bifurcated the liability part and the claimant – appellant cannot have any grievance against

this bifurcation. Neither the owner of the vehicle nor the insurer of the vehicle appear to have challenged the award. It is clear from perusal of the policy that no wider coverage in respect of insured vehicle or the insured was undertaken by the Insurance Co. other than statutory requirement under Sections 95 and 96 of the Motor Vehicles Act except for driver and cleaner and, therefore, in the opinion of this Court, no interference is called for in the judgment and award. The appeal must fail and stands dismissed. No costs.

(A.L.DAVE,J.)

(VIPUL)